

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 26

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOSEPH E. PROVINO, JAMES D. DAVIS, and MARC S. DYE

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Appeal No. 2000-0883  
Application No. 08/672,528

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HEARD: June 11, 2002

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Before RUGGIERO, GROSS, and BLANKENSHIP, Administrative Patent Judges.

GROSS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 45, which are all of the claims pending in this application.

Appellants' invention relates to a communication mechanism for and method of passing information within an operating system environment between computer-implemented applications running in the environment that employ different memory addressing modes. Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A communication mechanism for passing information within an operating system environment between computer-

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implemented applications running in said environment that employ different memory addressing modes, comprising:

a device driver coupled to said operating system environment and having application program interface to communicate with said applications through a set of predefined function calls;

said device driver having a message handler responsive to said function calls and a message buffer to establish buffered communication between at least two of said applications, one application being a sending application and one application being a receiving application, the sending application issuing predetermined information intended for the receiving application;

a mapping mechanism coupled to said message handler configured to determine the addressing mode of said sending application and to translate the addressing mode of said sending application into a predetermined addressing mode;

a message transfer mechanism coupled to said message handler that uses said mapping mechanism to copy said predetermined information into said message buffer and then to signal said receiving application to access said message buffer to copy said predetermined information,

whereby a copy of said predetermined information is passed between sending application and receiving application without requiring the receiving application to know the addressing mode of the sending application whereby the sending application is adapted to operate asynchronously of the receiving application.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Sandage et al. (Sandage)                      5,414,848                      May 09, 1995

Matt Pietrek, Windows Internals: the Implementation of the Windows Operating Environment, Addison-Wesley Publishing (1993), Chapter 7.

Claims 1 through 30 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sandage in view of Pietrek. Claims 31

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through 45 stand rejected under 35 U.S.C. § 103 as being unpatentable over Sandage alone.

Reference is made to the Examiner's Answer (Paper No. 15, mailed January 21, 2000) for the examiner's complete reasoning in support of the rejections, and to appellants' Brief (Paper No. 14, filed November 1, 1999) and Reply Brief (Paper No. 16, filed March 27, 2000) for appellants' arguments thereagainst.

#### OPINION

We have carefully considered the claims, the applied prior art references, and the respective positions articulated by appellants and the examiner. As a consequence of our review, we will reverse the obviousness rejections of claims 1 through 45.

The examiner admits (Answer, page 4) that "Sandage does not teach (1) the sending and the receiving applications operate asynchronously to one another." Such asynchronous operation is recited in each of independent claims 1, 16, and 31.

The examiner asserts (Answer, page 4) that the Microsoft Windows enhanced mode operating system "provides both synchronous and asynchronous protocols of interprogram messaging." Further, the examiner explains that in the asynchronous mode, a Windows program "(receiving program) is provided with a message queue (application message queue), and a sending program posts a message to the receiving program's message queue and returns

after posting the message without waiting for response from the receiving program." The examiner states (Answer, page 5) that message queues are used "to enable an application program (receiving program) to receive multiple messages from other programs." The examiner concludes (Answer, page 5) that it would have been obvious to include a message queue (and thus an asynchronous mode of operation) in Sandage "so as to enable all VMs to access the shared code."

In the examiner's response to appellants' arguments, he states (Answer, page 7) that the asynchronous mode of interprogram messaging and application message queues are inherent to the Windows operating environment and, therefore, to Sandage. The examiner continues (Answer, page 8) that the skilled artisan would have been motivated to apply the message queues to Sandage "to provide the device driver with the ability to handle multiple function calls to the shared code."

Appellants point out (Brief, page 9) that in Sandage "[t]he shared code VxD invokes calls to a Windows Process scheduler to schedule the target VM and *block* selection of the calling VM." Our review of Sandage confirms that Sandage does block selection of the calling VM until after the target VM executes the shared code routine and generates the return parameters (see column 7, lines 39-51). As the calling VM must wait for the return

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parameters from the target VM before resuming execution, Sandage clearly operates in a synchronous mode.

For claims 1 through 30, the examiner provides a reference to show that an asynchronous mode is used by some programs operating in a Windows environment. However, a showing that some programs employ the asynchronous mode that is available in a Windows operating environment is insufficient to establish a motivation for selecting that mode for any given application, particularly for one that clearly is operated in a synchronous mode. Further, it appears that the entire operation of Sandage would have to be changed to implement the alternate mode, and the examiner has provided no guidance as to how one would go about switching to the asynchronous mode. For claims 31 through 45, the examiner relies solely on Sandage, while having admitted that Sandage lacks any teaching of asynchronous operation. Thus, the examiner has failed to establish a *prima facie* case of obviousness, and we cannot sustain the rejection of claims 1 through 45.

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CONCLUSION

The decision of the examiner rejecting claims 1 through 45  
under 35 U.S.C. § 103 is reversed.

REVERSED

JOSEPH F. RUGGIERO	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
ANITA PELLMAN GROSS	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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HOWARD B. BLANKENSHIP	)	
Administrative Patent Judge	)	

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